

# Inspect for Enforcement

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# The Enforcement Case Begins

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....when the facility  
is targeted

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# What happens as a result of your inspection?

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The quality of the inspection will influence the enforcement response decision

# It will never go to trial.....

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- Enforcement documents
- Settlement negotiations
- Pre-trial discovery

# “Inspect for Enforcement” means:

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- Document the Facts
- Be a good witness
- Don't create issues

# Document the facts.

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- Checklists
- Photographs
- Statements by facility personnel
- Time, date, order
- Inspection report

# Be a good witness.

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- Testimony comes in many forms-signing of inspection report, certifications, statements, depositions, trials



# Some common situations

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- Mild intimidation
- Multiple choice questions
- Suggested answers
- Volunteering
- Guessing/Speculation
- Is it possible?

# New developments in evidence rules

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- Expert testimony
- Discovery of electronically stored information

# Electronic Discovery

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- FRE 37(f) Absent “exceptional circumstances” the court may not impose sanctions for failing to provide ESI lost as a result of ROUTINE GOOD FAITH OPERATION of an electronic information system

# Don't create issues.

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- Delay in formalizing inspection report
- Careless email
- Unguarded conversations
- Writing errors
- Disregard of agency document retention rules
- “Lone Ranger”